

ITEM: 9

SUBJECT: City of Livingston, Industrial Wastewater Treatment Facility, Merced County

BOARD ACTION: Consideration of a Cease and Desist Order

BACKGROUND: The City of Livingston owns and operates an industrial wastewater treatment facility (IWWTF) that provides utility service to a chicken-processing complex owned and operated by Foster Poultry Farms. The IWWTF treats the complex's pretreated wastewater in a series of unlined ponds. Treated wastewater is discharged to percolation ponds and recycled on lands owned by Foster Poultry Farms. Deficiencies in IWWTF design and maintenance adversely impacted groundwater with nitrogen and impaired its beneficial uses, and in response to informal enforcement the City proposed an IWWTF Upgrade Project (Project) that features biological nitrogen removal and continued discharge to existing percolation ponds. Selection of a particular biological nitrogen removal treatment technology mutually agreeable to the City and Foster Farms has delayed Project construction and implementation for more than two years. Recent events unrelated to the Project have strained the working relationship between the City and Foster Farms. The City has not met the project schedule commitment it made to staff. Formal enforcement is appropriate.

The proposed Order imposes a time schedule to complete the Project within the next two years. The proposed Order contains a finding reflecting what nitrogen effluent performance level can be considered to be BTPC.

ISSUES: The City itself submitted no comment except that it welcomes a formal enforcement schedule to assist it in managing the Project schedule. Foster Farms submitted editorial comments and requested that an additional year be incorporated into the schedule. No additional time has been proposed by staff.

The California Sportfishing Protection Alliance and Watershed Enforcers (CSPA) submitted comments requesting status as a designated party for the proceeding. CSPA issues include statements that the proposed project should be put on hold and a flow restriction imposed, a TSO issued, a spill plan provided, compliance with Title 27 required, and consistency with the antidegradation policy and flood protection policy addressed. A formal response to these comments will be completed and provided to the Regional Water Board and all interested parties as soon as possible.

Mgmt. Review: _____

Legal Review: _____

26/27 October 2006

Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Ranch Cordova, CA 95670